

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In Re:

CASE NO. 08-29929-JES

TERRANCE PATRICK CASEY and  
SHEILA A. CASEY

CHAPTER 7  
Previously Chapter 13

Debtors.

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AMENDED MOTION OF U.S. BANK NATIONAL ASSOCIATION  
FOR ABANDONMENT

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NOW COMES U.S. Bank National Association (hereinafter "Creditor"), by its attorneys, Kohner, Mann & Kailas, S.C., and seeks an Order of the Bankruptcy Court granting Creditor abandonment of property of the estate, so that Creditor may pursue foreclosure and repossession procedures for payment of the debts owed by Terrance Patrick Casey and Sheila A. Casey (hereinafter "Debtors"). In support hereof, Creditor states:

JURISDICTION

1. The Debtors previously filed for relief under Chapter 13 of the U.S. Bankruptcy Code (11 U.S.C. §101 et seq.) on September 12, 2008. Debtors then converted to Chapter 7 on March 30, 2009. Michael P. Maxwell is the Chapter 7 Trustee.

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Janine L. Collette, Esq.  
Attorneys for U.S. Bank, N.A.  
Kohner, Mann & Kailas, S.C.  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725  
Email: [jcollette@kmklawfirm.com](mailto:jcollette@kmklawfirm.com)

2. This Court has jurisdiction over this proceeding under 28 U.S.C. § 1334, § 157, and the Order of Reference of the District Court; this is a core proceeding under 28 U.S.C. § 157; and venue in this Court is proper under 28 U.S.C. § 1409.

3. This Motion is brought pursuant to Bankruptcy Code § 554, and the Federal Rules of Bankruptcy Procedure 4001, 9014 and 6007.

#### MOTION FOR ABANDONMENT

4. On January 20, 2009, Creditor filed a Motion for Relief from the Automatic Stay as to the first mortgage herein and a final hearing was held on the matter on May 28, 2009.

5. On June 29, 2009, this Court entered an Order terminating the automatic stay on September 1, 2009, if the subject real estate in interest, commonly known as 6941 North Barnett Lane, Fox Point, Wisconsin 53217 (hereinafter the "Collateral"), did not secure a firm offer or be sold by the Trustee by August 31, 2009.

6. As of September 2, 2009, no firm offer has been made on the Collateral and Creditor now seeks an Order of Abandonment.

7. As of August 31, 2009, the Debtors were indebted under a Note and first Mortgage by virtue of funds and credits advanced to, or on behalf of, the Debtors; to wit:

Principal Balance	\$	255,880.87
Interest		21,323.44
Accum. Late Charges		98.99
Escrow Advance(s)		12,634.88
Recoverable Corporate Advance(s)		120.00
Less Suspense Balance		(457.70)
Recording Fee		11.00
NSF Fees		30.00
Other Fees Due		200.00
Prior Bankruptcy Attorneys' Fees and Costs		950.00
 SUBTOTAL	 \$	 290,791.48

PLUS:

Bankruptcy Attorneys' Fees	500.00
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TOTAL	\$ 291,291.48
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Interest from:

May 1, 2008 through September 1, 2008 @7.75%	6,610.24
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Interest from:

September 1, 2008 through September 1, 2009 @5.75%	14,713.20
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Interest per day @5.75% per annum	40.31
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8. Said debt is secured by a parcel of real estate and improvements, as evidenced by the loan and security documents attached hereto as an Exhibit. The real estate and improvements described in the loan and security documents, commonly known as 6941 North Barnett Lane, Fox Point, Wisconsin 53217, is the "Collateral."

9. The loan Note is in default. The Debtors have not made the payment due on November 1, 2008 and all payments due since then.

10. The estimated fair market value of the property per the Village of Fox Point Treasurer's office is \$438,000.00, less a forced sale discount of 20%, leaves an estimated value at foreclosure sale of \$350,400.00.

11. Per Schedule D (Secured Claims) filed by the Debtors in their Chapter 13 case, U.S. Bank, N.A., N.D. holds a third mortgage against the Collateral. U.S. Bank, N.A., N.D. estimates that the payoff of this mortgage is \$198,043.00, good through August 31, 2009. These two mortgage amounts herein exceed the estimated value of the Collateral.

12. The Debtors have no equity in the Collateral and the Collateral is not necessary for an effective reorganization of the Debtors or their estate.

13. Creditor is entitled to adequate protection of the Mortgage and lien in and against the Collateral. Neither the Debtors nor the Chapter 7 Trustee will be able to adequately protect said mortgage interest and lien in the Collateral.

14. Creditor (and its principals, successors, assigns and/or the holder of the mortgage) is entitled to an order requiring the Trustee to abandon the estate's interest in the Collateral under 11 U.S.C. § 554, so as to allow the enforcement against the Collateral of the loan Note and real estate mortgage dated August 10, 2001, recorded on September 25, 2001, in the Office of the Register of Deeds for Milwaukee County, as Document No. 8139504, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral, and the application of the net sale proceeds of said Collateral to the indebtedness owed by Debtors.

15. Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose. **See attached Notice.**

WHEREFORE, Creditor requests that the Court enter an Order requiring the Trustee to abandon the estate's interest in the Collateral under 11 U.S.C. § 554, so as to allow Creditor (and its principals, successors, assigns and/or the holder of the mortgage) to enforce rights, interests, liens and claims in and against the Collateral, subject to the real estate mortgage dated August 10, 2001, recorded on September 25, 2001, in the Office of the Register of Deeds for Milwaukee County, as Document No. 8139504, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral and the application of the net sale proceeds of the Collateral to the indebtedness owed by the Debtors; that any Order entered pursuant to this motion be effective immediately upon its entry; and

Such further relief as is just and equitable.

Such further relief as is just and equitable.

Dated: September 2, 2009.

KOHNER, MANN & KAILAS, S.C.  
Attorneys for U.S. Bank, N.A.

By: Janine L. Collette  
Attorney No. 1063934

Post Office Address:  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725

CERTIFICATE OF NO INTENT TO FILE A BRIEF

Janine L. Collette, one of the attorneys for Creditor, states that Creditor does not intend to file a brief with this Motion. Creditor, however, reserves the right to file a brief should a party in interest object to this Motion or file a brief in opposition to this Motion.

Janine L. Collette

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NOTICE REQUIRED BY THE FAIR DEBT  
COLLECTION PRACTICES ACT (the Act)  
15 U.S.C. Section 1692 As Amended

1. Kohner, Mann & Kailas, S.C. is a debt collector and the attached Motion and this Notice are an attempt to collect a debt. Any information you provide to Kohner, Mann & Kailas, S.C. will be used for that purpose.

2. This Notice pertains to your dealings with Kohner, Mann & Kailas, S.C., as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must respond to the Motion. The information in this Notice also does not affect my firm's relations with the court. As lawyers, Kohner, Mann & Kailas, S.C. may file papers in the court according to the court's rules and the judge's instructions.

3. The amount of the debt is stated in the Motion attached hereto. Because of interest, late charges, attorneys' fees and other charges, the total amount of the debt may vary from day-to-day, and may become greater than the amount stated in the Motion. Hence, if you arrange to pay the amount shown in the Motion, an adjustment may be necessary after we receive the payment check, in which event we will inform you before depositing the payment check. For further information write our firm at the address set forth below or call our firm at (414) 962-5110.

4. The creditor as named in the attached Motion is the creditor to whom the debt is owed.

5. The debt described in the Motion attached hereto will be assumed to be valid by Kohner, Mann & Kailas, S.C., unless you, within 30 days after the receipt of this Notice, dispute the validity of the debt or some portion thereof.

6. If you notify Kohner, Mann & Kailas, S.C. in writing within 30 days of the receipt of this Notice that the debt or any portion thereof is disputed, Kohner, Mann & Kailas, S.C. will obtain a verification of the debt and a copy of the verification will be mailed to you by Kohner, Mann & Kailas, S.C.

7. If the creditor as named in the attached Motion is not the original creditor, and if you make a written request to Kohner, Mann & Kailas, S.C. within the 30 days from the receipt of this Notice, the name and address of the original creditor will be mailed to you by Kohner, Mann & Kailas, S.C.

8. The law does not require us to wait until the end of the thirty (30) day period before proceeding before the court. If, however, you request proof of the debt or the name and address of the original creditor within the thirty (30) day period that begins with your receipt of this Notice, the law requires us to suspend our efforts (through litigation or otherwise) to collect the debt until we mail the requested information to you.

9. Written requests should be addressed to Kohner, Mann & Kailas, S.C., 4650 North Port Washington Road, Milwaukee, Wisconsin 53212-1059.

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In Re:

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TERRANCE PATRICK CASEY and  
SHEILA A. CASEY

CHAPTER 7  
Previously Chapter 13

Debtors.

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NOTICE OF AMENDED MOTION OF U.S. BANK NATIONAL ASSOCIATION  
FOR ABANDONMENT

---

U.S. Bank National Association, by its attorneys, Kohner, Mann & Kailas, S.C., has filed papers with the Court to seek abandonment of property of the estate. A copy of the Motion is attached.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant relief from the automatic stay, or if you want the Court to consider your views on the motion, then **on or before September 21, 2009**, you or your attorney must:

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Janine L. Collette, Esq.  
Attorneys for U.S. Bank, N.A.  
Kohner, Mann & Kailas, S.C.  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725  
Email: [jcollette@kmmklawfirm.com](mailto:jcollette@kmmklawfirm.com)

File with the Court a written response explaining your position at:

Clerk of the U.S. Bankruptcy Court  
United States Courthouse  
517 East Wisconsin Avenue, Room 126  
Milwaukee, WI 53202-4581

If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above.

You must also mail a copy to:

Kohner, Mann & Kailas, S.C.  
Attention: Janine L. Collette, Esq.  
Washington Building  
Barnabas Business Center  
4650 North Port Washington Road  
Milwaukee, WI 53212-1059

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

Dated: September 2, 2009.

KOHNER, MANN & KAILAS, S.C.  
Attorneys for U.S. Bank, N.A.

By: Janine L. Collette  
Attorney No. 1063934

Post Office Address:  
Washington Building  
4650 North Port Washington Road  
Milwaukee, WI 53212  
Telephone: (414) 962-5110  
Facsimile: (414) 962-8725

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CASE NO. 08-29929-JES

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CHAPTER 7  
Previously Chapter 13

Debtors.

CERTIFICATE OF SERVICE

STATE OF WISCONSIN     )  
                                      )SS  
COUNTY OF MILWAUKEE )

I, the undersigned, hereby certify that on the 2<sup>nd</sup> day of September, 2009, I caused a true copy of the foregoing **Amended Notice of Motion and Motion of U.S. Bank National Association for Abandonment**, to be served upon the following parties by Notice of Electronic Filing:

Michael P. Maxwell, Chapter 7 Trustee  
Richard A. Check and Todd C. Esser, Debtors' Attorneys  
Office of the U.S. Trustee

I also caused to be manually served a true copy of the documents described above in a properly first-class, postpaid envelope bearing sender's name and return address, and addressed and mailed to:

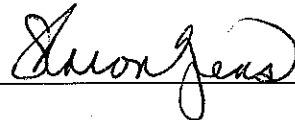
Debtors

Terrance Patrick Casey  
4230 North Oakland Avenue, #134  
Shorewood, WI 53211

Sheila A. Casey  
6941 North Barnett Lane  
Fox Point, WI 53217

Creditors

(See Attached Creditor Mailing List)



Subscribed and sworn to before me  
this 2<sup>nd</sup> day of September, 2009.



Notary Public, Milwaukee County, WI  
My commission expires: 06/24/12.

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GE Money Bank  
Attn: Ramesh Singh  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

PRA Receivables Management, LLC  
PO Box 41067  
Norfolk, VA 23541-1067

Aurora Health Care  
PO Box 341457  
Milwaukee, WI 53234-1457

Bank Of America  
NC4-105-03-14  
4161 Piedmont Pkwy  
Greensboro, NC 27410-8110

Barry K Gimbel MD SC  
Financial Recoveries, Inc.  
P.O. Box 310  
Fond du Lac, WI 54936-0310

Capital One  
P.O. Box 30285  
Salt Lake City, UT 84130-0285

Chase  
P.O. Box 15298  
Wilmington, DE 19850-5298

Collection Experts, Inc.  
1305 N. Barker Rd.  
Brookfield, WI 53045-5230

Columbia Hospital  
PO Box 3077  
Milwaukee, WI 53201-3077

Dan McNally  
770 E Fleetwood Pl  
Milwaukee, WI 53217

Dr. Gielow  
827 N Cass St  
Milwaukee, WI 53202-3908

Dr. Murphy D.D.S.  
6070 N Port Washington Rd  
Milwaukee, WI 53217-4524

EMERGE/FNBO  
P.O. Box 105555  
Atlanta, GA 30348-5555

EVS  
805 E.Green Bay Rd.  
Saukville, WI 53080-2618

EVS  
PO Box 311  
Random Lake, WI 53075-0311

Eagle Colleciton  
749 W. Wisconsin Ave.  
Pewaukee, WI 53072-2315

Eric Sherburne  
Stein & Moore, PA.  
332 Minnesota St. #W1650  
Saint Paul, MN 55101-1336

GC Services  
6330 Gulfton  
Houston, TX 77081-1198

Geilow  
1018 E. Knapp St.  
Milwaukee, WI 53202-2975

Greg Clausen  
% Mallery & Zimmerman, SC  
731 N. Jackson St. #900  
Milwaukee, WI 53202-4613

HSBC Bank NA/Direct Merchants Credit Card  
Bank NA by eCAST Settlement Corporation  
as its agent  
POB 35480  
Newark NJ 07193-5480

Greg Claussen  
25900 NW Hwy  
Southfield, MI 48075-1067

HSBC  
Cardmember Services  
P.O. Box 5253  
Carol Stream, IL 60197-5253

Illinois Tollway  
P.O. Box 5201  
Lisle, IL 60532-5201

Jefferson Capital Systems LLC  
PO BOX 7999  
SAINT CLOUD MN 56302-7999

John B. Kuhn  
c/o Mallery & Zimmerman, S.C.  
731 North Jackson Street, Suite 900  
Milwaukee, Wisconsin 53202-4613

John Kuhn  
7040 N Port Washington Rd  
Milwaukee, WI 53217-3838

John McGourthy  
N136 W11801 Bonniwell Rd.  
Mequon, WI 53097

John Murphy  
11693 San Vicente Blvd  
Los Angeles, CA 90049-5105

K. Zimmerman  
8989 N Port Washington Rd  
Milwaukee, WI 53217-1671

MACYS RETAIL HOLDINGS, INC.  
TSYS DEBT MGMT., INC.  
PO BOX 137  
COLUMBUS, GA 31902-0137

Macy's Department Store  
Bankruptcy Dept.  
6356 Corley Road  
Norcross, GA 30071-1704

Madison Medi Affil  
P.O. Box 689890  
Milwaukee, WI 53268-9890

Mark Madden  
9463 Coral Crest Ln  
Vienna, VA 22182-4409

Mark Madden  
9463 E. Coral Crest Ln.  
Vienna, VA 22182-4409

Mequon Clinical  
11501 N. Port Washington Rd. #202  
Mequon, WI 53092-3466

Mike Keough  
958 E Circle Dr  
Milwaukee, WI 53217-5361

NSPA  
5800 N. Bayshore Dr. #850  
Glendale, WI 53217-4540

North Shore  
5750 N Glen Park Rd  
Milwaukee, WI 53209-4403

Northwoods Landscaping  
W6937 Country Road V  
Cascade, WI 53011-1518

Oshkosh Collection & Recovery  
P.O. Box 160  
Oshkosh, WI 54903-0160

Paul M. Sandvick, DDS  
6070 N. Port Washington Rd.  
Milwaukee, WI 53217-4524

Peter Hammon  
8324 N Indian Creek Pkwy  
Milwaukee, WI 53217-2612

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

Roth Heating  
400 W. Drexel Ave.  
Oak Creek, WI 53154-2029

Roundup Funding, LLC  
MS 550  
PO Box 91121  
Seattle, WA 98111-9221

Schmidt Rupke  
17100 W North Ave  
Brookfield, WI 53005-4436

Scott Revolinski  
% Mallery & Zimmerman, SC  
731 N. Jackson St. #900  
Milwaukee, WI 53202-4613

Scott Revolinski  
330 E Kilbourn Ave Ste 850  
Milwaukee, WI 53202-3170

Scott Revolinski  
c/o Mallery & Zimmerman, S.C.  
731 North Jackson Street, Suite 900  
Milwaukee, Wisconsin 53202-4613

Shoreview Pediatric  
2524 E. Webster Pl. #301  
Milwaukee, WI 53211-4268

South Bed Clinic  
401 E Colfax Ave Ste 400  
South Bend, IN 46617-2783

State Collection Service  
3301 W Forest Home Ave  
Milwaukee, WI 53215-2843

Tripoli  
7200 N. Santa Monica Blvd.  
Fox Point, WI 53217-3505

Tripoli CC  
7401 N 43rd St  
Milwaukee, WI 53209-1921

US BANK / RETAIL PAYMENT SOLUTIONS  
PO BOX 5229  
CINCINNATI, OH 45201-5229

US Bank  
205 W. 4th Street  
Cincinnati, OH 45202-4824

US Bank  
Attn: Tonette Hill; EP-MN-L22F  
200 S. Sixth St.  
Minneapolis, MN 55402-1595

US Bank  
P.O. Box 790167  
Saint Louis, MO 63179-0167

USAA Bank  
10750 Mc Dermott  
San Antonio, TX 78288-1600

USAA FEDERAL SAVINGS BANK  
C O WEINSTEIN AND RILEY, PS  
2001 WESTERN AVENUE, STE 400  
SEATTLE, WA 98121-3132

Vicki Swartzell  
% Mallery & Zimmerman, SC  
731 N. Jackson St. #900  
Milwaukee, WI 53202-4613

Vicki Swartzell  
137 W Suburban Dr  
Milwaukee, WI 53217-2336

Vicki Swartzell  
c/o Mallery & Zimmerman, S.C.  
731 North Jackson Street, Suite 900  
Milwaukee, Wisconsin 53202-4613

Village of Fox Point  
7200 N. Santa Monica Blvd  
Milwaukee, WI 53217-3546

WE Energies  
Attn: Bankruptcy Dept.  
PO Box 2046  
Milwaukee, WI 53201-2046

WE Energies  
Attn: Bankruptcy Dept.-A130  
P.O. Box 2046  
Milwaukee, WI 53201-2046

WFB Cleaners  
419 W Silver Spring Dr  
Milwaukee, WI 53217-5087

eCAST Settlement Corporation assignee of  
Capital One Bank  
POB 35480  
Newark NJ 07193-5480

Pam Grant  
First Weber Realtors  
4050 North Port Washington Road  
Milwaukee, WI 53212

Sheila A. Casey  
6941 North Barnett Lane  
Milwaukee, WI 53217-3604

Terrance Patrick Casey  
4230 N. Oakland Avenue  
#134  
Shorewood, WI 53211-2042

Todd C. Esser  
Todd C. Esser & Associates  
11805 West Hampton Avenue  
Milwaukee, WI 53225-3612

Vicki Swartzell  
137 West Suburban Drive  
Fox Point, WI 53217-2336

U.S. Bank, National Association  
4801 Frederica Street  
Owensboro, KY 42301